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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,403	09/23/2003	Jerry Scruggs	4426-PA2	2487

7590 04/19/2005

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EXAMINER

ULLAH, AKM E

ART UNIT PAPER NUMBER

2874

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/668,403

Applicant(s)

SCRUGGS ET AL.

Examiner

Akm Enayet Ullah

Art Unit

2874

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8-10, 15 and 16 is/are rejected.
- 7) ☒ Claim(s) 5-7, 11-14 and 17-20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### **Detailed Action**

*Applicant cooperation is requested in correcting any errors of which applicant may become aware in the specification.*

### **Status of the Application**

*Claims 1- 20 are pending in this application.*

*If applicant is aware of any prior art or any other co- pending application not already of record, he/she is reminded of his/her duty under 37 CFR 1.56 to disclose the same.*

*If applicant provides prior art, he/she is requested to cite it on form PTO-1449 in accordance with the guideline set forth in MPEP 609.*

### **Drawings**

*This application has been filed on September 23, 2003 with informal drawings, which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.*

***Claim Rejections - 35 USC § 103***

*The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:*

*(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.*

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

***Claims 1-4, 8-10 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nadeau et al (USP Pub. no. 2003/0161603) or Hwang et al (US Pub. no. 2004/0202428).***

***Both references disclose an apparatus comprising a header having a surface defining a substantially horizontal plane and an optical transceiver (i.e., a photodiode, a light emitting device and a lens) carried by a bench disposed in a tilted state for aligning the chip-level optical transceiver with an optical fiber. The references further disclose a support structure securing the fiber, a header coupled to the support structure and the optical fiber aligned with the optical transceiver.***

***Both references differ from the claimed invention because he does not explicitly disclose the chip-level optical transceiver (i.e., two photodiode, a light emitting device and a lens) as claimed throughout the claims.***

*Column 1 of Hwang et al is the evidence that ordinary skill in the art would find a reason, suggestion or motivation to have a chip-level optical transceiver in any one of the above mentioned reference since, in a typical optical module (using a silicon optical bench technology) an optical active elements such as a laser diode and a photodiode can be aligned by a passive alignment technique such as a conventional flip-chip bonding technique.*

*Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the apparatus of any one of the above mentioned reference wherein a chip level optical transceiver would consists of two photodiode, a light emitting device and a lens which would minimize the cost of the components of optical transceiver and the fiber optic system.*

### **Objections to Claims, Allowable Subject Matter**

Claims 5-7, 11-14 and 17- 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Cited Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bowen et al (USPNO. 5,487,124), Bennett et al (USPNO. 2003/0053048) and Delpiano et al (USPNO. 6,389,202) are cited show a typical bi-directional coupler along with a tilted feature and a bench assembly respectively.

### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akm Enayet Ullah whose telephone number is 571-272-2361. The examiners can


normally be reached on Monday through Wednesday from 5:30 am to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick, can be reached on Monday through Friday whose telephone number is 571-272-2344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Art Unit: 2874

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Akm Enayet Ullah  
Primary Examiner  
Art Unit 2874

*Aullah*

*April 06, 2005*